

1 CHAIRPERSON JAMES: And with that, I'd like to open  
2 it up for questions from Commissioners. Commissioner Loescher  
3 and then to Commissioner Bible.

4 COMMISSIONER LOESCHER: Yes, Madam Chairman, I have a  
5 couple or three questions. Madam Chairman, Mr. Husk, does the  
6 State of Arizona support the compacts that they've entered into  
7 to this date as a matter of public policy?

8 MR. HUSK: Madam Chairman, Commissioner Loescher,  
9 yes, that is correct. The state recognizes its obligations under  
10 the compact and to my knowledge it's fulfilled its obligations  
11 under the compact.

12 COMMISSIONER LOESCHER: Madam Chairman, Mr. Husk, I  
13 kind of read yesterday and last night and this morning and then I  
14 listened very carefully to your testimony and you sound like  
15 you've got a bad case of buyer's remorse. And I understand the  
16 context of where you're coming from. You're focused on  
17 regulation and I think you've articulated very well the focus  
18 that you have but I'm wondering a couple things. You know, you  
19 make a colloquy in your statement about the fact that the tribal  
20 regulators are usually employed by a gaming commission that  
21 reports to a tribal counsel and tribal regulators lack autonomy  
22 of their off-reservations counterparts, et cetera, et cetera.

23 And I observed that the State of Arizona is involved  
24 in lottery, state lottery and also you're a part of this 20-state  
25 Power Ball program that \$290 million has been floating around  
26 America that somebody won today. But what's the difference? The  
27 regulators of the state that manage and oversee the state lottery  
28 and Power Ball certainly have to report to the governor and to

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1 the legislature and to the people of Arizona. What's the  
2 difference between that and what is occurring with the tribal  
3 governments in your opinion?

4 MR. HUSK: Madam Chairman, Commissioner Loescher,  
5 first of all let me say I don't believe that there is any part of  
6 buyer's remorse in my comments. I think my comments were  
7 intended to provide this commission with some insight as to what  
8 is working and what isn't working within the regulatory and  
9 enforcement areas of Indian gaming and I attempted to do that. I  
10 recognize what the obligations are under the compact. As to your  
11 question regarding the comparison to lottery or Power Ball, I can  
12 tell you that a significant difference is that you do not have  
13 the entity that is regulating that industry that is also  
14 advocating for that industry and in some instances, at least  
15 within Arizona, that has occurred.

16 COMMISSIONER LOESCHER: Madam Chairman, just one  
17 more.

18 CHAIRPERSON JAMES: Commissioner Loescher.

19 COMMISSIONER LOESCHER: I'm intrigued by your  
20 language in juxtaposed against the comments of Penny Coleman.  
21 You say that, regarding IRGA, that Arizona lacks the authority to  
22 impose civil fines on gaming operators, it lacks the authority to  
23 audit gaming operations, it lacks authority to track gaming  
24 revenues. Yet, the Indian Gaming Commission does that very thing  
25 and by statute and regulation it's required to do all of which  
26 you have just outlined as criticisms. Is it possible that the  
27 State of Arizona lacks -- why cannot -- why cannot the State of  
28 Arizona accept the certifications of the Indian Gaming Commission

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1 that those statutory requirements of IGRA, which are the very  
2 things you're criticizing, are not certifiable and being complied  
3 with?

4 Why does the State of Arizona want to know these  
5 things beyond what the Indian Gaming Commission is willing to  
6 certify as accurate and in compliance with federal law? What's  
7 your interest?

8 MR. HUSK: Madam Chairman, Commissioner Loescher, the  
9 interest on the part of the state is to independently insure and  
10 regulate the Indian gaming industry and insure that it meets the  
11 highest levels of integrity and that is an objective that the  
12 State of Arizona does not take lightly and we believe that there  
13 is not only an ability but an obligation on the part of the State  
14 of Arizona to conduct independent inquiries into those areas.

15 COMMISSIONER LOESCHER: Madam Chairman, Mr. Husk, the  
16 United States is willing to represent that all these things are  
17 true, that they're occurring and whatnot. You're not willing to  
18 accept the word of the United States that these things are true  
19 and also does your compact require and extend to these things  
20 that you're requesting?

21 MR. HUSK: Madam Chairman, Commissioner Loescher, I  
22 think your question assumes that the United States, through the  
23 National Indian Gaming Commission, has the resources and  
24 personnel necessary to conduct all those type of activities. I  
25 can tell you based upon my experience there is a shortage of  
26 resources that would allow the National Indian Gaming Commission  
27 to conduct all those types of activities and even if they did  
28 have sufficient resources under the terms of the compact, Arizona

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1 is not prepared to delegate its regulatory responsibility to the  
2 National Indian Gaming Commission.

3 COMMISSIONER LOESCHER: Thank you, Madam Chairman.

4 CHAIRPERSON JAMES: Thank you. Commissioner Bible.

5 COMMISSIONER BIBLE: For Mr. Husk along the same  
6 lines, do you get basic revenue data on the various casinos that  
7 are operated by the tribes within Arizona from the National  
8 Indian Gaming Commission?

9 MR. HUSK: Madam Chairman, Commissioner Bible, we do  
10 not receive information from the National Indian Gaming  
11 Commission of that nature. An annual audit is to be submitted by  
12 the individual tribes that conduct the gaming operations to the  
13 Arizona Department of Gaming but that information comes directly  
14 from the tribes, not from the NIGC.

15 COMMISSIONER BIBLE: Is that a revenue audit or a  
16 compliance audit or both?

17 MR. HUSK: That is a revenue audit that is required  
18 annually.

19 COMMISSIONER BIBLE: And for Ms. Coleman, do you have  
20 basic revenue data from all of the tribal gaming operations  
21 throughout the country?

22 MS. COLEMAN: Yes, we do.

23 COMMISSIONER BIBLE: That would be broken down by  
24 denomination, whether it's table games or machines or something  
25 of that nature?

26 MS. COLEMAN: It often is, yes.

27 COMMISSIONER BIBLE: Do you have a standard format  
28 where you solicit that information and collect it?

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1 MS. COLEMAN: No, the audits are done under generally  
2 accepted accounting principles. They -- they look pretty  
3 uniform.

4 COMMISSIONER BIBLE: So you just have basic audit  
5 information. You don't have detailed revenue operation in terms  
6 of the gaming operations that would indicate, for instance, how  
7 much of the win comes from nickel machines or dollar machines or  
8 quarter machines or table games or something of that nature?

9 MS. COLEMAN: I'd have to ask our auditor.

10 COMMISSIONER BIBLE: Do you also have pretty good  
11 expense information and distribution information that indicates  
12 where the monies are being expended and how they're being  
13 distributed to either the tribe or the tribal members?

14 MS. COLEMAN: No, at this time we really don't have a  
15 lot of that information.

16 COMMISSIONER BIBLE: Is the Commission willing to  
17 share all of that revenue data with this particular Commission?

18 MS. COLEMAN: We will share such information we can.  
19 We are constrained by the Act as far as sharing proprietary  
20 information.

21 COMMISSIONER BIBLE: What would you consider  
22 proprietary information?

23 MS. COLEMAN: A lot of the audit information is  
24 considered proprietary.

25 COMMISSIONER BIBLE: So you would not be in a  
26 position to share the audit information?

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1 MS. COLEMAN: We may be able to provide some broad  
2 figures. There are also, if you've seen the GAO report that does  
3 some summarizing of the figures.

4 COMMISSIONER BIBLE: I have seen the report. They  
5 relied upon the reports that you have within your agency?

6 MS. COLEMAN: Yes, yes.

7 CHAIRPERSON JAMES: Can I just interject here for a  
8 point of clarification? The particular act that you refer to  
9 which would make that information unavailable to this Commission,  
10 does that say that you cannot share it with other federal  
11 agencies or you may not share it with the public?

12 MS. COLEMAN: It requires -- it requires us to hold  
13 it pursuant to the Freedom of Information Act, exemptions 4 and  
14 7. The Freedom of Information Act does not allow sharing with  
15 other federal agencies unless for law enforcement purposes.

16 COMMISSIONER BIBLE: So you have shared that  
17 information then with the Department of Justice?

18 MS. COLEMAN: For law enforcement purposes, yes.

19 COMMISSIONER LOESCHER: Madam Chairman?

20 CHAIRPERSON JAMES: Commissioner Loescher.

21 COMMISSIONER LOESCHER: I believe that I have a  
22 different understanding of what our statute says, vis-a-vis the  
23 IGRA statute and I think we should ask our counsel to give us  
24 advice on how much and where we can get this information from. I  
25 believe that under our statute under the confidentiality  
26 provisions and protections that our statute enables, we should be  
27 able to reach into the National Indian Gaming Commission and  
28 secure the data on a confidential basis for this Commission. So

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1 if there's any question I would urge you, Madam Chairman, to have  
2 our counsel review that matter with the Indian Gaming Commission.

3 COMMISSIONER BIBLE: I would share that belief and if  
4 it's appropriate make a request for all of this particular  
5 information certainly in an informal form to begin with.

6 CHAIRPERSON JAMES: Certainly, and we'll do that.

7 COMMISSIONER BIBLE: And then to follow up on another  
8 question to Ms. Coleman, your statement indicates that there's  
9 285 gaming operations, 188 tribes are operating in 28 states and  
10 yet your budget is only 40 employees and \$5 million. Are you  
11 adequately funded at all to fulfill your mission?

12 MS. COLEMAN: We have received more funding. We  
13 expect to be expanding very soon. We will have many more field  
14 investigators out in the field in the very near future.

15 COMMISSIONER BIBLE: Are you currently funded in an  
16 adequate level to fulfill your mission?

17 MS. COLEMAN: For 5 million, no.

18 COMMISSIONER BIBLE: No.

19 MS. COLEMAN: We are going to expand. We are going  
20 to have more money.

21 COMMISSIONER BIBLE: And why did it take 10 years to  
22 just adopt minimum internal control standards. That's sort of  
23 fundamental to the business. That's what you do first before you  
24 start operating.

25 MS. COLEMAN: I cannot speak for why it was not done  
26 before but since I've been there and Commissioner Hogan has been  
27 there, we realized the need for such standards and when the  
28 Commission decided to go ahead with those, they moved very

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1 quickly. We hired an outside consultant, Arthur Andersen, who  
2 had people who specialized in this area and we've had the  
3 assistance of the states and NIGA NCAI task force as well as  
4 advisory committee. Considering we're the government, we've  
5 actually moved fairly quickly on this section, I think.

6 COMMISSIONER BIBLE: Ten years after tribal gaming  
7 started you're just adopting the standard and you think you've  
8 moved quickly?

9 MS. COLEMAN: Well, the National Indian Gaming  
10 Commission didn't come into -- they weren't all appointed until  
11 1991. The basic regulations weren't effective until '93. As I  
12 said, our focus at the beginning was management contract  
13 approval, the background investigations. Those are the things  
14 that were being done first and then as we got into enforcement,  
15 we realized the need for these standards and we've started  
16 moving. And we moved into it very quickly when we realized the  
17 need for it.

18 COMMISSIONER BIBLE: And the reason I ask the  
19 question is we had testimony and today to some extent that  
20 indicated at least tribal gaming is one of the most heavily  
21 regulated segments of the gaming industry. Your own testimony  
22 would indicate that at least from your perspective you have  
23 inadequate funding. You haven't had funding for a number of  
24 positions that's adequate to fulfill your mission and you're just  
25 now adopting really the basic tenants of good regulatory practice  
26 which is adoption of minimum internal control standards.

27 MS. COLEMAN: Well, I think that what I've been  
28 saying is that we're about to have more money. We are doing a

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1 human's job, I would say considering our resources. I have seen  
2 -- for instance, let me give you an example. The State of New  
3 Jersey has three times more people, has 12 facilities right in a  
4 row and yet, they only average about 25 enforcement actions a  
5 year, not because they don't have many violations. I've been  
6 told that they average about 6,000 violations a year, but they  
7 only bring about 25 actions.

8 Well, we bring that many with one-third the number of  
9 resources and the mix, they are necessary in some places, they  
10 aren't necessary everywhere. There are many tribes that have, as  
11 I said, internal controls that are beyond any of the non-Indian  
12 gaming facilities.

13 COMMISSIONER BIBLE: Are they applicable to Class III  
14 gaming?

15 MS. COLEMAN: Yes.

16 COMMISSIONER BIBLE: You also indicated in your  
17 statement that the NIGC has the authority to determine whether  
18 Class III gaming is conducted in conformance with the  
19 tribal/state compact. Have you made such a determination in the  
20 State of California?

21 MS. COLEMAN: There are very few compacts in  
22 California.

23 COMMISSIONER BIBLE: Well, is all the gaming that's  
24 being conducted then in accordance with a compact?

25 MS. COLEMAN: The gaming that is being conducted down  
26 there is Class III gaming without a compact.

27 COMMISSIONER BIBLE: Have you taken enforcement  
28 action?

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1 MS. COLEMAN: The U.S. -- we have taken enforcement  
2 actions, yes, but primarily the U.S. Attorneys are taking lead on  
3 those actions.

4 COMMISSIONER BIBLE: But you haven't independently  
5 fined the operations or anything of that nature?

6 MS. COLEMAN: Yes, we can.

7 COMMISSIONER BIBLE: Have you done that?

8 MS. COLEMAN: Yes.

9 COMMISSIONER BIBLE: You have?

10 MS. COLEMAN: Yes.

11 COMMISSIONER BIBLE: Have you lodged fines against  
12 all the tribes that are --

13 MS. COLEMAN: Pardon?

14 COMMISSIONER BIBLE: Have you taken action and  
15 assessed fines against all of the tribal operations that are  
16 involved in Class III gaming?

17 MS. COLEMAN: No, we haven't.

18 COMMISSIONER BIBLE: Is there some sort of lack of  
19 uniformity or what's the problem?

20 MS. COLEMAN: No, the United States Attorneys as well  
21 as the NIGC both have the authority to bring such actions. One  
22 of the things we try to do is to coordinate our resources,  
23 coordinate our actions. The way we split up our responsibilities  
24 in California is we inform the tribes that if any new tribes try  
25 to open up Class III that we would come in and enforce against  
26 them immediately and that the U.S. Attorneys would be bringing  
27 the enforcement actions against them and that's how we spilt up  
28 our responsibilities.

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1 CHAIRPERSON JAMES: Any other Commissioners?

2 COMMISSIONER MCCARTHY: Just briefly.

3 CHAIRPERSON JAMES: Commissioner McCarthy.

4 COMMISSIONER MCCARTHY: I'd be interested in knowing  
5 what directions your Commission gave to Arthur Andersen in  
6 setting up auditing standards for the Commission to use in  
7 auditing tribes around the country, if you could share those with  
8 us. You indicated Arthur Andersen was brought in recently to  
9 help standardize your auditing procedures. Did I understand you  
10 correctly?

11 MS. COLEMAN: Not really to standardize our auditing  
12 procedures.

13 COMMISSIONER MCCARTHY: What are you asking Arthur  
14 Andersen to do?

15 MS. COLEMAN: What we asked Arthur Andersen to do is  
16 we said, "We want to establish internal controls that are uniform  
17 throughout the United States and are applicable throughout Indian  
18 country". And those kinds of standards are what do you do with  
19 cash accounting? Do you have three slips of paper --

20 COMMISSIONER MCCARTHY: Why don't you just give us a  
21 list of the things that you've asked Arthur Andersen to  
22 standardize and what we'd like to do is compare that to what the  
23 most active regulatory systems at the state level ask in a  
24 similar area. Are you following what I'm asking?

25 MS. COLEMAN: Yes.

26 COMMISSIONER MCCARTHY: Thank you.

27 MS. COLEMAN: You would like me to provide it for the  
28 record or you want --

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1 COMMISSIONER McCARTHY: Yes, I want you to please  
2 mail it to the Commission, ask your Chairman to mail it to the  
3 Commission.

4 MS. COLEMAN: I would be glad to.

5 COMMISSIONER McCARTHY: All right, thank you. Just a  
6 brief question, Mr. Metoxen; and it regards the tribal  
7 regulators' meetings. Do the -- I don't know how long you've  
8 been in existence and how often you meet but do the tribal  
9 regulators attempt to -- let me back up.

10 The states can enter into interstate compacts which  
11 are short of federal law and regulation, into interstate compacts  
12 which is allowed by federal law but in many different situations  
13 two or many states enter into interstate compacts so that they  
14 have the same standard in different areas, whether they share  
15 water rights or whether it's depositing nuclear waste, it's any  
16 number -- is there any discussion going on among Native American  
17 tribes that do operate gambling to possibly among themselves now,  
18 enter into any kind of similar compact if it is -- I realize  
19 they're independent sovereign nations, but they also have the  
20 right to make the judgment that they might enter into something  
21 similar to interstate compacts to standardize so that all of the  
22 questions that come up about, "Gee, well this tribe is doing a  
23 great job but we don't know -- since we don't have access to any  
24 information, we don't know what that tribe is doing".

25 Is there any discussion at your tribal regulators'  
26 meetings to bring back to the chairpersons of the different  
27 tribes some proposals on trying to standardize across the country  
28 among all tribal gambling operations?

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1 MR. METOXEN: Yes, actually, the discussion has been  
2 going on for some time and that's where the tribal regulators  
3 have maintained an involvement in the development of the national  
4 mix that have been forwarded to the Senate Committee as well as  
5 the National Indian Gaming Commission. The tribal regulators  
6 themselves do recognize the importance of a standardized minimum  
7 internal controls that could be applied. At the federal level, if  
8 that goes into the approval process then what you're looking at  
9 from the tribal regulatory standpoint is then the tribes  
10 themselves must have at least standards that meet these minimum  
11 internal controls.

12 It doesn't necessarily say that means you will adopt  
13 these minimum control standards, what it means you must have  
14 within your own tribe. An example, and I hope I'm putting this  
15 appropriately, is that if the Oneida Tribe, which we do have our  
16 own Oneida minimum internal control standards, if you could  
17 compare those to the national mix that have been completed by the  
18 NIGA and NTGC&R, they meet and exceed what they have in place.

19 COMMISSIONER MCCARTHY: Why not adoption? In an  
20 interstate compact situation, the state through its governor and  
21 legislature will act to endorse the interstate compact. There is  
22 a public procedure set out. Why not propose adoption by the  
23 independent sovereign nation tribes to adopt and to agree to out  
24 of their own free will something that would be similar to the  
25 interstate compact among a number of tribes, copying the best  
26 uniform code laws adopted to tribal conditions, whether it's in  
27 auditing or in other areas? Why not go a step further?

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1 MR. METOXEN: That question would be better put  
2 towards one of the tribal leaders or representation for the  
3 tribal leaders. Speaking on behalf of the tribal regulators, our  
4 comments and statements have been to support that minimum  
5 internal controls standards be recognized and be established.  
6 That's where our involvement comes in at that time is  
7 recognizing. The tribal regulators themselves will discuss these  
8 issues when they get together in a comparison of the mix and the  
9 minimum standards they have.

10 COMMISSIONER MCCARTHY: But I think they're looking  
11 to all the bright people that go to the tribal regulators'  
12 meeting for recommendations like that.

13 CHAIRPERSON JAMES: Thank you. Any other questions?

14 COMMISSIONER MOORE: I would just like to make one  
15 comment, Madam Chairman.

16 CHAIRPERSON JAMES: Absolutely.

17 COMMISSIONER MOORE: We've heard how well the Indian  
18 gaming is regulated. What I'd like to make a comment is that of  
19 all the Indian -- some information that I have here in 1995 109  
20 Class III Indian gaming facilities, casino type gaming generated  
21 about half as much money as the 12 casinos that's lined up on a  
22 straight line in Atlantic City yet, somewhere else, I can't find  
23 it, I have all of this amount of money that Atlantic City spends  
24 on gaming and how many regulators they have.

25 I think it's about twice as much. They spend about  
26 twice as much. I believe their budget as Mr. Bible has in about  
27 --

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1 COMMISSIONER BIBLE: I think they're about three  
2 times but they're coming down.

3 COMMISSIONER MOORE: Okay, and he has a lot of them  
4 scattered everywhere. I'd just like to -- I think that Mr. Bible  
5 and the New Jersey group, I think they ought to copy because the  
6 Indians are getting theirs regulated better than anyone, for  
7 almost nothing.

8 COMMISSIONER BIBLE: I agree wholeheartedly. Thank  
9 you.

10 (Laughter)

11 CHAIRPERSON JAMES: I hope you hadn't missed the sort  
12 of sarcasm there. I hope the subtlety wasn't lost.

13 COMMISSIONER MOORE: But I don't really know how they  
14 know how it's regulated because no one knows how much money went  
15 in. I do have some figures here that we got from somewhere, how  
16 much money goes in and how much money comes out. So how do we  
17 know how it's regulated.

18 COMMISSIONER BIBLE: Doctor Moore, the reason I asked  
19 the question about revenue data is that's kind of a fundamental  
20 point or part of regulation. We, for instance, take all of the  
21 data off of all the gaming devices in the State of Nevada and all  
22 of the table games in the State of Nevada and we compare the  
23 winning figures and compare those to statistical norms to make a  
24 determination as to whether they're within the expected pattern.  
25 We try to understand and fully explore any variance from that  
26 data, a very easy thing to be done and I suspect that neither the  
27 State of Arizona nor probably the National Indian Gaming  
28 Commission has that data for tribal gaming operations where they

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1 could simply run it on a machine basis and take a look at the  
2 figures.

3 And that's just one item. I mean, there's thousands  
4 of items that are like that. Minimum control standards are the  
5 fundamental part of gaming regulation. They deal with, as Ms.  
6 Coleman indicated, who has access to the keys and how many people  
7 you have in the count room and how you bundle the money and how  
8 you calibrate the weigh scales and a hundred things like that and  
9 I'm just surprised after 10 years they're just now talking about  
10 doing those sort of things.

11 And I do recognize and I've talked with a number of  
12 the tribes throughout the United States and I believe the  
13 regulatory pattern is really kind of a patchwork, it's a quilt.  
14 In some cases it's very, very good. Some of the tribes have done  
15 an extraordinarily good job of regulating the gaming. In other  
16 areas they haven't been quite so successful.

17 CHAIRPERSON JAMES: Any additional questions? While  
18 I know this is an absolutely fascinating discussion and  
19 regulations are something that we probably could spend the rest  
20 of our afternoon chatting about, I think that we do have a  
21 subcommittee that's chaired with that responsibility and I  
22 suspect that they will be delving even more deeply into these  
23 areas and I would ask that you continue to make yourselves  
24 available in terms of providing information and counsel and  
25 advice to our subcommittee.

26 I want to thank each of you for participating today  
27 and for your testimony. Thank you very much. Just one or two  
28 little housekeeping items in terms of where we are in our

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1 schedule and how we can make up some of the time and how we can  
2 also accommodate our Commissioners not passing out up here for  
3 lack of food and breaks. There is no perfect solution for that  
4 but let me offer a potential solution.

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